



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/141888

PRELIMINARY RECITALS

Pursuant to a petition filed June 20, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on August 16, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Department has taken any negative action that may be appealed.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Souphalack Khgmmyzong
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. On May 1, 2012, Petitioner became eligible for Medicaid. Prior to this time, Petitioner had received services through an HMO, United HealthCare.

3. On May 1, 2012, Petitioner's provider Midamerica Health Corporation of WI completed a Personal Care Screening Tool on the Petitioner. Based on that assessment, the provider submitted a prior authorization request (PA # [REDACTED]) on behalf of the Petitioner in which it requested 56 units/week (approximately 2 hours/day) of personal care worker hours. That PA request was approved by the Medicaid agency on May 1, 2012.
4. On June 20, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Department has taken absolutely no negative action against the Petitioner to date. Rather, the Department granted all of the requested personal care worker service hours submitted by the petitioner's provider. Where there is no negative action by the Department against a recipient's MA benefits, there is no jurisdiction to review the issue raised. See, Wis. Stat. § 49.45(5); and see, Wis. Admin. Code §HA 3.05(3).

As dicta, I note that the Petitioner may make a request of the provider to submit a PA Request for more hours than the number derived from the use of the Personal Care Screening Tool (PCST) as mandated by the Department, but the provider must justify the medical necessity of the additional hours of services sought; and the Department will determine whether any increase has been justified by the clinical documentation.

CONCLUSIONS OF LAW

That the Department granted all of the PCW hours requested in PA # [REDACTED] and has taken no known negative action to date against the Petitioner. Therefore, DHA has no jurisdiction to review the instant appeal under Wis. Stat. § 49.45(5) absent any negative action by the Department against the Petitioner's MA.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

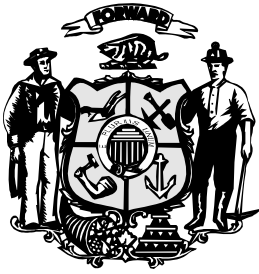
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of September, 2012

Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access And Accountability - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 7, 2012.

Division of Health Care Access And Accountability